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FINN O' McCLAFFERTY and BRIAN WEIR
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8 **THE UNITED STATES DISTRICT COURT FOR**
9 **THE CENTRAL DISTRICT OF CALIFORNIA**

10 RICHARD CEJA, an individual,
11 FINN O' McCLAFFERTY, an
individual, BRIAN WEIR, an
12 individual,

13 Plaintiffs.

14 v.

15 THE CITY OF BEVERLY HILLS, a
California municipal corporation,
16 THE BEVERLY HILLS POLICE
DEPARTMENT, a municipal agency,
17 CAPT. MARK ROSEN, an
individual, CAPT. LINCOLN
HOSHINO, an individual, CAPT.
18 ELIZABETH ALBANESE, an
individual, CAPT. MAX SUBIN, an
19 individual, SHELLY OVROM, an
individual, LT. DAVID HAMEL, an
20 individual, LT. SHAN DAVIS, an
individual, LT. TERRY NUTALL, an
21 individual, LT. RENATO MORENO,
an individual, CHIEF DAVID
22 SNOWDEN, an individual, OFFICER
ANNE MARIE LUNSMAN, an
23 individual, LT. KEVIN ORTH, an
individual, SGT. DALE
24 DRUMMOND, an individual, DET.
MARK SCHWARTZ, an individual,
25 and DOES ONE through ONE
HUNDRED (1-100),
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27 Defendants.
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CIVIL ACTION NO.
2:22-cv-05884-MEMF-AGR

**PLAINTIFFS' FIRST AMENDED
COMPLAINT FOR DAMAGES AND
DECLARATORY AND EQUITABLE
RELIEF**

1. The Plaintiffs RICHARD CEJA ("CEJA"), FINN O' MCCLAFFERTY ("MCCLAFFERTY") AND BRIAN WEIR ("WEIR") ("Plaintiffs"), complain for entry of judgment in their favor against THE CITY OF BEVERLY HILLS ("BH"), CAPT. MARK ROSEN ("ROSEN"), CAPT. LINCOLN HOSHINO ("HOSHINO"), CAPT. ELIZABETH ALBANESE ("ALBANESE"), CAPT. MAX SUBIN ("SUBIN"), SHELLY OVROM ("OVROM"), LT. DAVID HAMEL ("HAMEL"), LT. SHAN DAVIS ("DAVIS"), LT. TERRY NUTALL ("NUTALL"), LT. RENATO MORENO ("MORENO", CHIEF DAVID SNOWDEN ("SNOWDEN"), OFFICER ANNE MARIE LUNSMAN ("LUNSMAN"), LT. KEVIN ORTH ("ORTH"), SGT. DALE DRUMMOND ("DRUMMOND"), DET. MARK SCHWARTZ ("SCHWARTZ") AND DOES1-100 ("Defendants").

2. Some or all of the following paragraphs of this Complaint are alleged on information and belief: 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 26, 27, 28, 30, 31, 32, 33, 35 and 36.

PARTIES AND OTHER IMPORTANT PERSONS/ENTITIES

3. Plaintiff RICHARD CEJA ("CEJA") is a natural person and a citizen of the State of California who at all times relevant to this complaint resided in this County, and who was harmed here by the acts of one or more of the Defendants. He is a former Sergeant with the City of Beverly Hills Police Department (the "BHPD").

4. Plaintiff FINN O' McCLAFFERTY ("McCLAFFERTY") is a natural person and a citizen of the State of California who at all times relevant to this complaint resided in this County, and who was harmed here by the acts of one or more of the Defendants. He is a former Detective with the BHPD.

5. Plaintiff BRIAN WEIR ("WEIR") is a natural person and a citizen of the State of California who at all times relevant to this complaint resided in this County, and who was harmed here by the acts of one or more of the Defendants. He is a former Sergeant with the BHPD.

6. Defendant THE CITY OF BEVERLY HILLS ("BH") is a Municipal Corporation

1 which operates in California, County of Los Angeles where it damaged one or more of
2 the Plaintiffs.

3 7. Defendant THE BEVERLY HILLS POLICE DEPARTMENT (the "BHPD") is
4 an agency of BH to which BH delegates policing policy making. It operates in
5 California, County of Los Angeles where it damaged one or more of the Plaintiffs.

6 8. Defendant CAPT. MARK ROSEN ("ROSEN") is a natural person and a citizen
7 of the State of California who at all times relevant to this complaint resided in this
8 County, and who caused harm here to one or more of the Plaintiffs. At various times
9 relevant to this complaint, ROSEN was a Captain in the BHPD who has now resigned
10 from the BHPD.

11 9. Defendant CAPT. LINCOLN HOSHINO ("HOSHINO") is a natural person and a
12 citizen of the State of California who at all times relevant to this complaint resided in
13 this County, and who caused harm here to one or more of the Plaintiffs. At various
14 times relevant to this complaint, HOSHINO was a Captain in the BHPD who has now
15 resigned from the BHPD.

16 10. Defendant CAPT. ELIZABETH ALBANESE ("ALBANESE") is a natural
17 person and a citizen of the State of California who at all times relevant to this complaint
18 resided in this County, and who caused harm here to one or more of the Plaintiffs. At
19 all times relevant to this complaint, ALBANESE was an employee of the BHPD.

20 11. Defendant CAPT. MAX SUBIN ("SUBIN") is a natural person and a citizen of
21 the State of California who at all times relevant to this complaint resided in this County,
22 and who caused harm here to one or more of the Plaintiffs here in this County. At all
23 times relevant to this complaint, ZUBIN was an employee of the BHPD.

24 12. Defendant SHELLY OVROM ("OVROM") is a natural person and a citizen of
25 the State of California who at all times relevant to this complaint resided in this County,
26 and who caused harm here to one or more of the Plaintiffs and who, at all times
27 relevant to this Complaint was an employee of Defendant BH.

28 13. Defendant CAPT. SHAN DAVIS ("DAVIS") is a natural person and a citizen of

1 the State of California who at all times relevant to this complaint resided in this County,
2 and who caused harm here to one or more of the Plaintiffs here in this County. At some
3 of the times relevant to this complaint, DAVIS was an employee of the BHPD.

4 14. Defendant LT. DAVID HAMEL ("HAMEL") is a natural person and a citizen
5 of the State of California who at all times relevant to this complaint resided in this
6 County, and who caused harm here to one or more of the Plaintiffs here in this County.
7 At some of the times relevant to this complaint, HAMEL was an employee of the
8 BHPD.

9 15. Defendant LT. TERRY NUTALL ("NUTALL") is a natural person and a citizen
10 of the State of California who at all times relevant to this complaint resided in this
11 County, and who caused harm here to one or more of the Plaintiffs here in this County.
12 At some of the times relevant to this complaint, NUTALL was an employee of the
13 BHPD.

14 16. Defendant LT. RANATO MORENO ("MORENO") is a natural person and a
15 citizen of the State of California who at all times relevant to this complaint resided in
16 this County, and who caused harm here to one or more of the Plaintiffs here in this
17 County. At all of the times relevant to this complaint, MORENO was an employee of
18 the BHPD.

19 17. Defendant CHIEF DAVID SNOWDEN ("SNOWDEN") is a natural person and
20 a citizen of the State of California who at all times relevant to this complaint resided in
21 this County, and who caused harm here to one or more of the Plaintiffs here in this
22 County. At some of the times relevant to this complaint, SNOWDEN was an employee
23 of the BHPD.

24 **The Protected Officers**

25 18. Defendant OFFICER ANNE MARIE LUNSMAN ("LUNSMAN") is a natural
26 person and a citizen of the State of California who at all times relevant to this complaint
27 resided in this County, and who caused harm here to one or more of the Plaintiffs. At
28 all times relevant to this Complaint, LUNSMAN was an employee of the BHPD.

1 19. Defendant LT. KEVIN ORTH ("ORTH") is a natural person and a citizen of the
2 State of California who at all times relevant to this complaint resided in this County,
3 and who caused harm here to one or more of the Plaintiffs. He was also at all times
4 relevant to this Complaint an employee of the BHPD.

5 20. Defendant INVESTIGATOR DALE DRUMMOND ("DRUMMOND") is a
6 natural person and a citizen of the State of California who at all times relevant to this
7 complaint resided in this County, and who caused harm here to one or more of the
8 Plaintiffs and who was at all times relevant to this Complaint an employee of the
9 BHPD.

10 21. Defendant DET. MARK SCHWARTZ ("SCHWARTZ") is a natural person and
11 a citizen of the State of California who at all times relevant to this complaint resided in
12 this County, and who caused harm here to one or more of the Plaintiffs herein while
13 serving as an employee of the BHPD.

14 22. Defendants LUNSMAN, ORTH, DRUMMOND and SCHWARTZ are
15 hereinafter collectively referred to as the "Protected Officers."

16 23. The true names and capacities, whether individual, corporate, associate or
17 otherwise, of defendants sued herein as DOES ONE through ONE HUNDRED (1-
18 100), inclusive, are unknown to Plaintiff at this time who therefore sue said Defendants
19 by such fictitious names. Plaintiffs will amend this complaint to show their true names
20 and capacities when the same has been ascertained.

21 24. At all times herein mentioned, Defendants and each of them, including DOES
22 ONE through ONE HUNDRED (1-100), inclusive, and each of them, were associates,
23 agents, servants and employees of each of the other co-defendants, and were acting
24 within the course and scope of their association, agency, service and employment, and
25 with the permission and consent of each of the other defendants.

26 **VENUE AND JURISDICTION**

27 25. This case arises under the United States Constitution and 42 U.S.C.
28 §§ 1983 and 1988, as amended. This Court has jurisdiction in this matter pursuant to

1 28 U.S.C. §§ 1331 and 1343. The declaratory and injunctive relief sought is authorized
2 by 28 U.S.C. §§ 2201 and 2202, 42 U.S.C. § 1983 and Rule 57 of the Federal Rules of
3 Civil Procedure.

4 26. This Court is an appropriate venue for this cause of action pursuant to 28
5 U.S.C. §§ 1391(b)(1) and (b)(2). The actions complained of took place in this judicial
6 district; evidence and employment records relevant to the allegations are maintained in
7 this judicial district and the Defendants are domiciled and regularly conduct affairs in
8 this judicial district.

9 COMMON ALLEGATIONS

10 27. Since before the various acts giving rise to this complaint, BH and BHPD have
11 been run, and had their policies set by, two competing groups. The first group (the
12 "DEFENDANT CONTROL GROUP") (with which the Defendants are each
13 associated) have worked together for the express purpose of protecting, encouraging
14 and/or tolerating inappropriate exercises of power by the members of the BHPD and
15 implementing policies and patterns of practice having the effect of realizing these illegal
16 goals. The second group (the "LEGALLY COMPLIANT CONTROL GROUP") have
17 worked to foster conduct in the BHPD consistent with the law and the constitution.

18 28. The Plaintiffs, and each of them, were well known during their tenure in the
19 BHPD for their "by the book" attitude and their intolerance of bad behavior by their
20 fellow officers.

21 29. Starting in or about 2011, the Plaintiffs, and each of them, collectively took
22 stands against certain acts of false reporting engaged in by the Protected Officers.

23 30. The DEFENDANT CONTROL GROUP, in an effort to protect the Protected
24 Officers, brought meritless charges of wrongdoing against each of the Plaintiffs.

25 31. The Protected Officers and their allies, in the meantime, rose in influence and
26 prominence within the BHPD during the same period of time.

27 32. In or about 2015 each of the Plaintiffs' had been forced to sue the BHPD to
28 vindicate their rights. Because each of the Plaintiffs had suffered injuries in the line of

1 work, BH, BHPD offered a settlement to each of them which involved some of their
 2 future recompense coming in the form of disability and/or retirement income which was
 3 controlled by CalPERS because each of the Plaintiffs had some form of work injury.
 4 Defendants directly or indirectly specifically agreed in confidential settlement
 5 agreements (the "Settlement Agreements") with Plaintiffs in connection with such
 6 lawsuits that "[t]he City will not take any action in bad faith to interfere with
 7 [Plaintiff's] CalPERS rights." The terms of the Settlement Agreements were known to
 8 only Plaintiffs, Defendants and their respective counsel. There was no one else who
 9 had access to the Settlement Agreements who could have shared them with CalPERS.

10 33. Between 2017 and 2019, some of the DEFENDANT CONTROL GROUP and
 11 their allies, entered into lawsuits against BH and BHPD. Plaintiffs offered, and were
 12 preparing, to testify against these litigants on behalf of the interests of the LEGALLY
 13 COMPLIANT CONTROL GROUP. In retaliation, and in direct and deliberate
 14 violation of the foregoing term, the Defendants conspired to, and did, send CalPERS
 15 anonymous tips regarding language which Defendants had worked to embed within the
 16 Settlement Agreements all with the purpose of causing Plaintiff's to lose their benefits
 17 to dissuade them from and punish them for exercising their constitutional right to
 18 testify. These anonymous tips ultimately resulted in Plaintiffs' losing significant
 19 benefits in an amount in excess of \$5,000,000.

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 24 **FIRST CAUSE OF ACTION -- CONSTITUTIONAL AND CIVIL RIGHTS**
 25 **PURSUANT TO 42 U.S.C. §§ 1983, 1988 (VIOLATION OF FIRST**
 26 **AMENDMENT SPEECH RIGHTS)**
 27 **(ON BEHALF OF ALL PLAINTIFFS AGAINST ALL DEFENDANTS)**

28 34. The preceding paragraphs are incorporated by this reference as though set forth

1 in full herein.

2 35. Through the foregoing acts, and each of them, the Defendants sought to and did
3 retaliate against Plaintiffs for their exercise of their constitutional right of free speech
4 and did so under color of their authority as law enforcement officers. Defendants'
5 efforts in this regard were also were intended to protect the Defendants's ongoing abuse
6 under color of law of the constitutional rights of the inmates under their supervision.

7 36. As a result of the wrongdoing of Defendants', and each of them, Plaintiffs have
8 been damaged in an amount presently unknown to her, but to be proven at time of trial,
9 but in no event less than \$5,000,000.

10 **PRAYER FOR RELIEF**

11 WHEREFORE, Plaintiff requests judgment against Defendants as follows:

12 A. For appropriate declaratory relief regarding the unlawful and unconstitutional acts
13 and practices of Defendants.

14 B. For appropriate compensatory damages in an amount to be determined at trial;

15 C. For civil penalties.

16 D. For appropriate equitable relief against all Defendants as allowed by the Civil
17 Rights Act of 1871, 42 U.S.C. Section 1983, including the enjoining and permanent
18 restraining of these violations, and direction to Defendants to take such affirmative
19 action as is necessary to ensure that the effects of the unconstitutional and unlawful
20 employment practices are eliminated and do not continue to affect Plaintiffs', or others',
21 employment opportunities;

22 E. For an award of reasonable attorney's fees and costs on her behalf expended as to
23 such Defendants; and

24 F. For such other and further relief to which Plaintiff may show themselves justly
25 entitled.

26 **PLAINTIFF REQUESTS TRIAL BY JURY ON ALL ISSUES SO TRIABLE.**

27 Date: March 7, 2023

28 THE LAW OFFICES OF JOHN A. SCHLAFF

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By: _____
John A. Schlaff
Attorneys for Plaintiffs RICHARD CEJA, FINN
O' McCLAFFERTY and BRIAN WEIR

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